

activated on the customer's number upon receipt of the initial porting order. When the CLEC activates its switch port, calls to the customer's telephone number are routed automatically to the CLEC's switch. See E. Smith Aff. Attach. A ¶ 14. This makes it unnecessary for Nevada Bell and the CLEC to coordinate LNP cutovers on a minute-to-minute basis. To further minimize the need for coordination, Nevada Bell has also implemented a mechanized Number Portability Administration Center ("NPAC") check pursuant to which Nevada Bell automatically delays stand-alone LNP requests where the CLEC has not activated the number in its own switch. See id. ¶ 10 & Attach. A ¶¶ 16-17. **As** the Commission has held, this process "is not currently required under the Commission's regulations, and thus not required to show compliance with checklist item 11." California Order ¶ 106. Nevada Bell's willingness nevertheless to devote the time and resources to implement this process further confirms its commitment to opening the local market to competition.

To assess performance related to number portability, Nevada Bell reports data on the timeliness of processing requests for number porting (PM 2), the timeliness of coordinated conversions involving LNP (PMs 9 and 9A), the timeliness of updating Nevada Bell's SS7 network (PM 10), the quality of Nevada Bell's provisioning process for LNP (PMs 15 and 17),²⁸ and maintenance timeliness and quality for troubles associated with Nevada Bell's network that affect ported services (PMs 15A, 19, and 21). See Johnson Aff. ¶¶ 159-165. Nevada Bell's

coordinated LNP conversions with CLECs. See E. Smith Aff. ¶ 14 & n.13. Coordinated conversions are further discussed in Part II.D.2.d, supra.

²⁸ In numerous *ex parte* filings during the course of the California 271 proceeding, AT&T suggested that PMs 15 and 17 were designed to track "outages" on conversion of LNP orders, and it criticized Pacific's data for failing to report outages that, AT&T claimed, its customers experienced. **As** SBC repeatedly explained, PMs 15 and 17 track trouble reports – including trouble reports resulting from outages caused by the ILEC – but they do not track outages per se.

performance on these measures has been excellent, meeting – and often exceeding – the relevant benchmark in each of the past three months for each of the LNP submeasures. See id.

L. Checklist Item 12: Local Dialing Parity

Local dialing parity ensures that CLECs' customers are able to place calls within a given local calling area by dialing the same number of digits as a Nevada Bell end user. The Commission anticipated "that local dialing parity [would] be achieved upon implementation of the number portability and interconnection requirements of section 251." Second Report and Order and Memorandum Opinion and Order, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 19392, ¶ 71 (1996). Nevada Bell has implemented number portability and the other related requirements of section 251, and CLEC customers can make local calls dialing the same number of digits as Nevada Bell customers. See Deere Aff. ¶¶ 168-171; see also PUCN Order at 194-95 (finding that Nevada Bell satisfies Checklist Item 12).

M. Checklist Item 13: Reciprocal Compensation for the Exchange of Local Traffic

Consistent with sections 271(c)(2)(B)(xiii) and 252(d)(2), Nevada Bell facilitates the exchange of traffic with CLECs by entering into just and reasonable reciprocal compensation arrangements for transport and termination of local traffic on the other carrier's network. This traffic is accurately accounted for, and Nevada Bell has entered into agreements to ensure the appropriate parties are compensated at lawful rates. See Shannon Aff. ¶¶ 93, 95, 99. Nevada Bell's reciprocal compensation arrangements thus satisfy Checklist Item 13 and further confirm the openness of local markets in Nevada. See PUCN Order at 196-97

Nevada Bell has entered into PUCN-approved interconnection agreements that contain rates, terms, and conditions for the mutual and reciprocal exchange of local telecommunications

traffic. See Shannon Aff. ¶ 93. Nevada Bell also offers to switch local transit traffic to allow CLECs to interconnect indirectly with other local carriers using Nevada Bell's facilities. See id. ¶¶ 96-97. This arrangement allows one CLEC to send traffic to another local carrier's network through Nevada Bell's tandem, thus avoiding the cost of investing in facilities necessary to interconnect to all other local carriers in a local calling area. See id.

Nevada Bell records usage data for traffic passed between its network and CLECs' networks, including usage data for terminating access. See id. ¶ 95; Flynn Aff. Attach. A ¶¶ 8-10; see also supra Part II.F (unbundled switching). On a monthly basis, Nevada Bell transmits summaries of this usage information to the terminating CLEC for billing. See Shannon Aff. ¶ 95.

N. Checklist Item 14: Resale

Nevada Bell's resale offerings allow CLECs to enter the local market in Nevada with virtually no investment or delay. This is confirmed by the presence of CLECs reselling more than 11,000 lines in Nevada Bell's serving area. See J.G. Smith Aff. ¶ 6. The PUCN has approved a generally applicable wholesale discount rate of 18.05 percent, see Jacobsen Aff. ¶ 23, and Nevada Bell has incorporated this discount into interconnection agreements, see Shannon Aff. ¶ 101.

Nevada Bell makes available for resale the same telecommunications services that Nevada Bell furnishes its own retail customers. See id. CLECs are able to sell these services to the same customer groups and in the same manner as Nevada Bell. See id. ¶¶ 103, 105. Nevada Bell offers wholesale discounts on promotional offerings lasting 90 days or more. See id. ¶ 104; see Conim South Agreement, App. Resale, § 3.5.2.2. Nevada Bell's end-user customer service contracts are also available for resale, subject to terms and conditions approved by this

Commission. See Shannon Aff. ¶ 107; see also Kansas/Oklahoma Order ¶ 253; New York Order ¶ 390.

As explained in the affidavit of John Habeeb, SBC's resale offerings in Nevada extend to those advanced telecommunications services that SBC's advanced services affiliate, ASI, provides at retail. See Habeeb Aff. ¶ 29. These include Frame Relay, ATM Cell Relay, customer service contracts, and R-LAN DSL Transport, all of which ASI makes available for resale at a wholesale discount in Nevada. See id. ¶ 14; ASI-WPTJ Agreement (App. B, Tab 15). In this respect, SBC's showing is the same in all material respects as the showing this Commission has approved in previous section 271 applications. See, e.g., Arkansas/Missouri Order ¶¶ 78-84; California Order ¶¶ 110-114.²⁹

The performance results clearly demonstrate that Nevada Bell provides CLECs nondiscriminatory access to wholesale arrangements that facilitate the resale of Nevada Bell's services. Indeed, Nevada Bell has met 100 percent of its resale-related provisioning and maintenance submeasures in at least two of the last three months for which data are available. See Johnson Aff. ¶ 166.

With respect to the provisioning of resale services, Nevada Bell met 96.8 percent of the relevant standards in the last three months. See id. ¶ 167. On average, for the three-month period ending November 2002, resale POTS services (including residential and business services) were installed for CLECs in less than one day, irrespective of whether field work was required to complete the installation. See id. ¶ 168. Nevada Bell's retail customers, by contrast.

²⁹ After developing a factual record establishing that ASI offers at a wholesale discount each of the services it provides at retail, the PUCN deferred to this Commission the question of how the Commission's legal standards apply to those facts. See PUCN Order at 204-05.

experienced an average completion interval of more than one day over the same time period.

See *id.* Nevada Bell achieved parity for average completion intervals for all resale products in at least two of the last three reported months. See *id.* ¶¶ 168-169

Nevada Bell's on-time provisioning performance for resale services has likewise been excellent. Performance results from September through November 2002 for the various submeasures associated with Measure 11 (Percentage of Due Dates Missed) and Measure 12 (Percentage of Due Dates Missed Due to a Lack of Facilities) reflect very high success rates. See *id.* ¶ 170 & n.76. Indeed, Nevada Bell achieved parity on each and every one of the 36 opportunities in the past three months for resale services, as tracked in these submeasures. See *id.* ¶ 170. And the percentage of CLEC resale orders placed in jeopardy has consistently been better than parity. From September through November 2002, Nevada Bell's resale-related performance with respect to PM 5 (Percent of Orders Jeopardized) met the parity standard for each submeasure at least two of the three months, where at least two months of data are available. See *id.* ¶ 171.

Nevada Bell also provides maintenance and repair services for resale lines in a manner that allows CLECs a meaningful opportunity to compete. Under Measure 19 (Customer Trouble Report Rate), Nevada Bell achieved parity for all resale submeasures with reportable data in each of the last three months for which data are available, with the exception of one submeasure in

Because SBC's showing in this respect is equivalent to its showing in Missouri, Arkansas, and California, it follows that the facts as found by the PUCN demonstrate checklist compliance.

one month. See id. ¶ 176.³⁰ In almost every instance, in the past three months, the customer trouble report rate for resale services was less than 1 percent. See Johnson Aff. ¶ 176.

Maintenance quality for resale services was also excellent in the last three months. Nevada Bell unfailingly restored resale POTS service within 24 hours, and it did so by the committed time in all instances save one. See id. ¶ 177. This performance far exceeded Nevada Bell's retail performance, which met the committed interval approximately 92 percent of the time. See id. In addition, the frequency of repeat troubles for resale services was at parity with Nevada Bell's retail services for every submeasure in each of the past three months. See id. ¶ 178. Likewise, whereas CLECs did not report a single repeat trouble for resold POTS during the past three months, Nevada Bell's retail customers experienced a repeat trouble report rate of greater than 7 percent for analogous services. See id. And, overall, Nevada Bell consistently restored resale services more quickly than it restored services to its own retail customers, as reflected in Measure 21 (Average Time to Restore), where performance met the parity standard in at least two of the past three months for every resale-related submeasure. See id. ¶¶ 179-180.

III. SBC'S ENTRY INTO THE INTERLATA SERVICES MARKET IN NEVADA WILL PROMOTE COMPETITION AND FURTHER THE PUBLIC INTEREST

Section 271 requires this Commission to determine whether interLATA entry "is consistent with the public interest, convenience, and necessity." 47 U.S.C. § 271(d)(3)(C). SBC's provision of interLATA services originating in Nevada satisfies this requirement. As this Commission has previously recognized, "compliance with the competitive checklist is itself a strong indicator that long distance entry is consistent with the public interest. This approach

³⁰ The one miss (for PM 19-91700 in September) is plainly isolated. Nevada Bell achieved parity for that submeasure in 11 out of the last 12 months. See Johnson Aff. ¶ 176 n.88.

reflects the Commission's years of experience with the consumer benefits that flow from competition in telecommunications markets." Kansas/Oklahoma Order ¶ 266. As the Commission recently reiterated, "BOC entry into the long-distance market will benefit consumers and competition if the relevant local exchange market is open to competition consistent with the competitive checklist." Georgia/Louisiana Order ¶ 281.³¹

As has occurred in every other state where section 271 relief has been granted, SBC's long-distance entry in Nevada will likely stimulate both long-distance and local competition. This increased competition, in turn, will result in substantial consumer savings. In a recent empirical study of the consumer-welfare benefits from BOC entry into long-distance, the authors found statistically significant evidence that BOC entry enabled average consumers to achieve substantial savings on their monthly interLATA bills. The authors also found statistically significant evidence that CLECs have a substantially higher cumulative share of the local exchange market in states where BOC entry has occurred."

³¹ Although this Commission has determined that its responsibility under the public-interest standard is broader than an assessment whether BOC entry would enhance competition in the long-distance market, see, e.g., Michigan Order ¶ 386, that position has never been reviewed on appeal and is inconsistent with the statute. The question under the statute is whether "the requested authorization is consistent with the public interest, convenience, and necessity." 47 U.S.C. § 271(d)(3)(C) (emphasis added). The "requested authorization" is obviously for permission to enter the long-distance market. This reading also finds support in section 271(c)(2)(B), which sets forth the competitive checklist, and section 271(d)(4), which states that "[t]he Commission may not . . . extend the terms used in the competitive checklist." Id. § 271(d)(4). It is implausible that Congress would have established the checklist and prevented the Commission from expanding upon it while nevertheless authorizing the Commission to add further local competition-related requirements in the context of its public-interest review.

³² See Jerry A. Hausman, Gregory K. Leonard & J. Gregory Sidak, Does Bell Company Entry Into Long-Distance Telecommunications Benefit Consumers?, 70 Antitrust L.J. 463 (2002) ("Bell Company Entry") (App. K, Tab 17).

Recognizing the correlation between 271 entry and increased local and long-distance competition, the PUCN has unequivocally concluded that SBC's entry into long-distance in Nevada will further the public interest. As the PUCN explained, "Nevada Bell has established a record that amply supports the conclusion that the Company has satisfied each of the fourteen items on the competitive checklist," it has "submitted evidence readily supporting the fact that Nevada Bell's entry into the long-distance market would benefit consumers and foster a more competitive marketplace in interLATA services," and there are no "unusual circumstances that would make entry contrary to the public interest." PUCN Order at 206-07 (quoting Massachusetts Order ¶ 233).

A. Consumers Clearly Benefit from Bell Company Entry into the In-Region, InterLATA Market

Section 271 approval vastly accelerates both long-distance and local competition. Chairman Powell has recognized "a correlation between the process for approving applications and growing robustness in the markets."³³ There is every reason to believe that this correlation will continue in Nevada.³⁴

SBC's entry into long-distance markets in Nevada, like BOC entry in other states, is particularly pro-competitive because it will give consumers an attractive alternative single source (and bill) for local and long-distance services, placing significant pressure on the competition to

³³ See Rodney L. Pringle, Powell Says Innovation Will Drive Telecom Upswing, Communications Today, June 6, 2001 (internal quotation marks omitted).

³⁴ See Bell Company Entry, *supra* note 32, at 482 (predicting that "consumers will benefit from lower long-distance bills following BOC entry"). According to one study, consumers in New York alone have saved up to \$700 million a year as a result of greater competition. See Telecommunications Research & Action Center, 15 Months After 271 Relief: A Study of Telephone Competition in New York 8-9 (Apr. 25, 2001) ("An average consumer that switched to Verizon for long-distance service will save between \$3.67 and \$13.94 a month [P]hone competition has brought up to \$700 million of savings to New York consumers.").

provide lower prices, enhanced services, and greater quality.³⁵ Survey after survey has shown customers' confusion and frustration with telephone bills

With simpler long-distance plans and the convenience of one all-inclusive telephone bill, the 271-approved BOCs have attracted an unexpectedly high number of customers. After only six months in Texas, SBC had 1.7 million long-distance lines; after only nine months, that number had grown to 2.1 million lines.³⁶ Twelve months after entry in Texas and four months after entry in Oklahoma and Kansas, SBC had a total of 2.8 million long-distance lines in service.³⁷

BOC entry into long-distance markets has invigorated competition in local markets as well. On March 5, 2002, while BellSouth's Georgia/Louisiana application was pending, AT&T announced that it would offer BellSouth customers in Georgia, particularly residential consumers, a "new choice for local phone service."³⁸ WorldCom earlier announced a similar mass entry into BellSouth's Georgia market – and immediately began signing up more than 16,000 customers a month." And, later in 2002, WorldCom announced the availability of its

³⁵ See SBC Communications to Launch Long-distance Service in Texas, Bus. Wire, July 7, 2000 ("Seventy-eight percent of those surveyed incorrectly believe the average amount paid per minute for a long-distance call is between 5 and 14 cents. According to a recent survey by Gartner Group, the average consumer is paying 22 cents a minute for long-distance.").

³⁶ See Michael J. Balhoff, et al., Legg Mason – Equity Research, Section 271 Relief: Bells Race IXCs/Each Other for New Markets/Revenues Table 4 (June 24, 2001).

³⁷ See SBC, Investor Briefing 7 (July 25, 2001), at http://www.sbc.com/Investor/Financial/Earning_Info/docs/2Q_IB_FINAL_Color.pdf.

³⁸ Letter from Joan Marsh, AT&T, to William Caton, Acting Secretary, FCC, CC Docket No. 02-35, Attach. (FCC filed Mar. 5, 2002).

³⁹ Walter C. Jones, PSC Opens Long-Distance Line for BellSouth, Florida Times-Union, Oct. 3, 2001.

“The Neighborhood” plan in California. just prior to the filing of SBC’s section 271 application for that state.⁴⁰

It *is* well-established that the long-standing commitment of many state commissions (including the PUCN) to universal service has resulted in residential rates that are in many cases below cost.” Unsurprisingly, CLECs generally have shown little appetite for competing to serve customers at such below-cost rates. Nevertheless, in states where BOCs have received 271 relief and where the incumbent long-distance carriers have accordingly felt the need to act to preserve their long-distance revenues – competition for residential customers has increased substantially. AT&T boasted that, following section 271 approval in New York, AT&T was “winning more of Verizon’s local customers than [Verizon is] taking of [AT&T’s] long-distance customers.”⁴² And, in Texas, WorldCom reaffirmed its aggressive drive to attract local

⁴⁰ See MCI, The Neighborhood, at http://www.theneighborhood.com/res_local_service/jsps/join.jsp?subpartner=FREEMONTH.

⁴¹ See, e.g., The Telecom Act Five Years Later: Is It Promoting Competition?, Hearing Before the Subcomm. on Antitrust, Business Rights, and Competition of the Senate Comm. on the Judiciary, 107th Cong., 1st Sess. 6 (May 2, 2001) (testimony of Pat Wood, Chairman, Texas Public Utility Commission) (“It will be difficult for competitors to ever come into the Texas market, just as it will be difficult to get into the California electricity market, if you can’t sell for the proper price or compete with the proper price which you just bought for ten dollars more. . . . [I]t is important to know that residential rates were purposely subsidized for 80 years . . .”); Report on Scope of Competition in Telecommunications Markets of Texas at 85 (Tex. PUC Jan. 2001) (to the extent competition is less viable for certain rural and residential customers, that is “rooted in underlying market conditions and in the historical regulatory pricing system for local telephone service”); see also PUCN Order at 27 (noting that “Nevada Bell’s territory-wide flat rate for residential service is \$10.75 a month”).

⁴² Speech by C. Michael Armstrong, Chairman & CEO of AT&T, at the National Press Club, Washington, D.C. (Feb. 7, 2001), at <http://www.att.com/speeches/item/0,1363,3662,00.html>.

customers: "MCI WorldCom continues to sign up new customers in Texas . . . 'We're very committed to local phone service.'" "

Along with discounts on local/long-distance bundles and reduced intrastate rates, the incumbent interexchange carriers are also leveraging advanced technologies. According to former FCC Chairman William Kennard, consumers "witnessed a dynamic market for broadband services develop as a result of the opening of local markets in Texas and New York."⁴⁴

This Commission as well has recognized that "states with long-distance approval show [the] greatest competitive activity" in local telecommunications.⁴⁵ "CLECs' cumulative [local] market share increased significantly after BOC entry into interLATA service [in New York and Texas]. Most of the change in CLEC share is attributable to AT&T Local and MCI Local, which have been driven by competition to offer a bundle of local and long-distance services because the BOC can now offer a similar package to residential consumers."⁴⁶

In sum, BOC 271 entry is a catalyst for increased competition in all segments of the communications marketplace – long-distance, local, and advanced services. In the words of

⁴³ See Tom Fowler, Telecom Issues Come Calling, Houston Chron., Jan. 7, 2001, at 1 (quoting MCI WorldCom spokeswoman Leland Prince).

⁴⁴ William E. Kennard, Chairman, FCC, Statement Before the Committee on the Judiciary United States House of Representatives on H.R. 1686 – the "Internet Freedom Act" and H.R. 1685 – the "Internet Growth and Development Act" (July 18, 2000) ("Kennard Testimony"). at <http://www.fcc.gov/Speeches/Kennard/Statements/2000/stwek096.htm>.

⁴⁵ See FCC News Release, Federal Communications Commission Releases Latest Data on Local Telephone Competition (May 21, 2001).

⁴⁶ Bell Company Entry, *supra* note 32, at 479; see also Bruce Hight, SW Bell Will Start Selling Long-Distance on Monday; AT&T, WorldCom Already Have Begun Counterattacks, Austin American-Statesman, July 7, 2000, at A1 ("Bell Atlantic's entry into long-distance – and the entry of AT&T and MCI among others, into local – has lowered costs and lowered rates for consumers. generally across the board") (quoting Sam Simon, Chairman, Telecommunications Research & Action Center).

fonner Chairman Kennard, “We need only review the state of competition in New York and Texas to know the Act is working.”⁴⁷

B. Nevada Bell Is Subject to Comprehensive Performance Reporting and Monitoring Requirements

The Commission has repeatedly noted that “the fact that a BOC will be subject to performance monitoring and enforcement mechanisms would constitute probative evidence that the BOC will continue to meet its section 271 obligations and that **its** entry would be consistent with the public interest.” Kansas/Oklahoma Order ¶ 269; see, e.g., Second Louisiana Order ¶ 363. Nevada Bell’s performance reporting and remedy plan provides precisely such “probative evidence.” The plan is based on comprehensive performance measurements developed in collaboration with CLECs and state and federal regulators and expressly approved by the PUCN. See Johnson Aff. ¶¶ 11-41. The performance data generated by these measurements have been validated by an independent third-party audit, as well as a data reconciliation conducted with an interested CLEC. See id. ¶¶ 184-198. Finally, the PUCN has approved a performance remedies plan that provides assurance that Nevada Bell **will** continue to provide CLECs with nondiscriminatory service in the wake of section 271 relief. See id. ¶¶ 199-214.

Performance Measurements. Nevada Bell’s performance measurements are the result of collaborative efforts among Nevada Bell, the PUCN, and interested CLECs to formulate a robust set of performance metrics. Id. ¶¶ 11-15. These measures – which are in most respects identical to the measures under which Pacific operates in California – track all aspects of Nevada Bell’s wholesale performance, including pre-ordering, ordering, provisioning, maintenance, network performance, billing, database updates, collocation, and interface availability. Id. ¶¶ 16-41

⁴⁷ Kennard Testimony, supra note 44

To assess Nevada Bell's performance on each of these measurements, data are collected monthly and disaggregated on a product-specific basis in accordance with detailed business rules approved by the PUCN. See id. ¶¶ 14, 16; see also Jacobsen Aff. ¶¶ 41-43; Order, Petition of Nevada Bell Telephone Company for Review and Approval of Its 2002 Performance Measurements Plan and Performance Incentives Plan, Docket No. 02-1040 (PUCN Sept. 12, 2002) (App. D, Tab 11). The performance measurements compare Nevada Bell's wholesale service either directly to the level of service provided to Nevada Bell's retail operations or to a benchmark. See Johnson Aff. ¶ 16. Nevada Bell employs traditional statistical analysis to gauge the significance of apparent differences in performance. See id. ¶ 201.

Nevada Bell makes its performance data available through an Internet website that includes individual CLECs' data (which are not available to other CLECs), aggregated data for all Nevada CLECs, and Nevada Bell's retail data. See id. ¶¶ 181-183. Nevada Bell allows access to the raw data underlying particular performance results. See id. ¶ 183.

The Commission has emphasized that the "continuing ability of [performance] measurements to evolve is an important feature because it allows the Plans to reflect changes in the telecommunications industry.'" Kansas/Oklahoma Order ¶ 275; Texas Order ¶ 425. Though first approved by the PUCN in February 1999, the performance measures now in effect incorporate changes resulting from reviews in 2000, 2001, and 2002. See Johnson Aff. ¶ 14. Moreover, the PUCN has retained jurisdiction over Nevada Bell's performance measures, and its proceeding remains open so that parties may periodically review and propose changes to Nevada Bell's measures. See id. ¶ 15; see also Jacobsen Aff. ¶¶ 47-49. Nevada Bell's measurements have thus evolved – and will continue to evolve – as necessary "to reflect changes in the telecommunications industry.'" Texas Order ¶ 425.

Data Reliability. Along with Pacific's processes, Nevada Bell's data collection methods and procedures have passed an independent, third-party test conducted by PwC. See Johnson Aff. ¶¶ 184-193 & Attachs. E, F & G. The audit process was developed by a steering committee – consisting of Pacific, Nevada Bell, and CLEC representatives – that defined the scope of the audit, selected the auditor, participated in regular status meetings during the course of the audit, and previewed a draft final audit report summarizing the results. See id. ¶ 185.

PwC's December 1999 report confirmed that Nevada Bell's performance data gathering and reporting processes substantially comply with the business rules for each performance measurement, and the report also validated numerical results reported by Nevada Bell. See id. ¶ 189 (“Our examination of management's assertions regarding Nevada Bell's OSS performance measure systems and processes compliance . . . confirmed that the systems and processes were substantially in compliance with those assertions.”) (quoting PricewaterhouseCoopers, Executive Summary and Observation Report – Nevada Bell (Dec. 30, 1999) (App. K, Tab 14)). PwC additionally identified two areas of potential improvement to Nevada Bell's control of data and its reporting of monthly reports, neither of which directly called into question any of Nevada Bell's reported results. See id. ¶¶ 189-192 & n.92. Nevada Bell implemented systems to address those recommendations – a fact that PwC confirmed in its May-June 2000 review of Nevada Bell's data. See id. ¶¶ 192-193. During that review, PwC made additional recommendations, which Nevada Bell promptly implemented. In November 2000, PwC issued a final report verifying that Nevada Bell had addressed each of its recommendations and closing its audit. See id. ¶ 193.

In addition to PwC's review, the accuracy and reliability of Nevada Bell's data are verifiable on an ongoing basis through CLEC review. Specifically, Nevada Bell is “ready and

willing” to engage in data reconciliations. and the one such reconciliation requested by a CLEC confirmed the overall reliability of the data in question. See id. ¶ 194; see Massachusetts Order ¶ 160 (noting importance of data reconciliations); Texas Order ¶ 57 (stressing that “the data submitted by SWBT . . . have been subject to scrutiny and review by interested parties”). In addition, Nevada Bell’s PUCN-approved performance measurement plan provides, at the CLECs’ election, for triennial audits of Nevada Bell’s data. See Johnson Aff. ¶ 195. The plan also provides for “mini-audits” in the event a CLEC believes data for a particular measure are flawed or that Nevada Bell has not reported those data in a manner consistent with the relevant business rules. See id. To date, no CLEC has requested the comprehensive audit provided for in the plan, nor has any CLEC invoked its right to request a mini-audit of any specific data. See id.

Incentives Plan. The PUCN has ordered Nevada Bell to implement an incentives plan that will unquestionably “foster post-entry checklist compliance.” Texas Order ¶ 423. The plan puts approximately \$2.8 million at risk annually, see Johnson Aff. ¶ 211, which is the same liability – measured as a percentage of net revenue – that has been approved in previous 271 orders, See, e.g., Texas Order ¶ 424 & n.1235; Kansas/Oklahoma Order ¶ 274 & n.837; New York Order ¶ 436 & n.1332; Massachusetts Order ¶ 241 & n.769.

The structural features of Nevada Bell’s plan are carefully “designed to detect and sanction poor performance when it occurs.” Massachusetts Order ¶ 245. The plan is designed in two tiers. The first tier awards payments to individual CLECs, based on the number of measures that are missed for that CLEC in a given month. See Johnson Aff. ¶¶ 201-208. The Tier I payment amounts for each missed measure increase with the severity of the “miss” for a month, ensuring that penalties (and CLEC compensation) escalate with poor performance. See id. ¶ 204. Likewise, Nevada Bell’s Tier I payments increase where performance on a particular measure is

chronically out-of-compliance. See id. ¶ 205. The second tier of Nevada Bell's plan tracks performance on an industry-wide basis and assesses penalties when Nevada Bell misses particular performance targets. See id. ¶ 209.

The plan is also self-executing, requiring Nevada Bell to make payments in the event of sub-standard performance. See id. ¶ 215; see also Massachusetts Order ¶ 246; Second Louisiana Order ¶ 364. Nevada Bell's monthly procedural cap is not triggered until it has paid out \$128,000 in a particular month. See Johnson Aff. ¶ 212. Even then, Nevada Bell is entitled at that point only to a hearing to determine whether in light of the evidence it should be required to make additional payments. See id.

These provisions establish Nevada Bell's satisfaction of all requirements for an effective performance remedy plan. See, e.g., Texas Order ¶¶ 422-429; New York Order ¶¶ 433-443; Kansas/Oklahoma Order ¶¶ 273-279. Nevada Bell's plan contains clearly stated, comprehensive measures and standards that are designed to detect and sanction deficient performance. As a result of independent data testing, CLECs and regulators have strong assurance that Nevada Bell's performance reports are accurate. Finally, Nevada Bell will be subject to self-executing payment obligations that provide a meaningful incentive to continue to provide CLECs with nondiscriminatory facilities and services following interLATA entry.

IV. SBC WILL PROVIDE INTERLATA SERVICES IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 272

SBC will provide authorized interLATA services originating in Nevada in accordance with the same structural separation and nondiscrimination safeguards as are in place in Texas, Kansas, Oklahoma, Missouri, Arkansas, and California. See Yohe Aff ¶ 6 (App. A, Tab 20); Henrichs Aff. ¶ 9 (App. A, Tab 8); Carrisalez Aff. ¶ 5 (App. A, Tab 1). Its section 272 affiliate, Southwestern Bell Communications Services ("SBCS"), will operate independently of Nevada

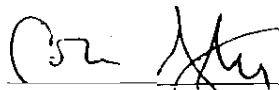
Bell, with separate officers, directors, and employees, and with separate books, records, and accounts. See Yohc Aff. Attach. A ¶¶ 11-16; Carrisalez Aff. Attach. A ¶¶ 10-24. All transactions between Nevada Bell and SBCS will be conducted on an arms-length basis, with the transactions reduced to writing, open to public inspection, and accounted for in accordance with accounting principles and rules approved by the Commission. See Henrichs Aff. Attach. A ¶¶ 11-22; Carrisalez Aff. Attach. A ¶¶ 28-51. And SBC will obtain and pay for a joint Federal/state biennial audit to confirm its ongoing compliance in Nevada with section 272 and the Commission's implementing regulations. See Henrichs Aff. Attach. A ¶¶ 37-43; Carrisalez Aff. Attach. A ¶¶ 52-54.

Based on "a sound record that supports a finding of compliance," the PUCN squarely concluded that Nevada Bell and SBCS "will operate in compliance with Section 272." PUCN Order at 214-15. In **Texas**, Kansas, Oklahoma, Missouri, Arkansas, and California, the Commission likewise held that SBC had "demonstrated that it will comply with the requirements of section 272." Texas Order ¶ 396; Kansas/Oklahoma Order ¶ 257; Arkansas/Missouri Order ¶ 123; California Order ¶ 145. Because SBC's section 272 showing here is the same in all material respects as it was in those states, it follows that SBC has demonstrated that the interLATA authorization it requests in this Application "will be carried out in accordance with the requirements of section 272." 47 U.S.C. § 271(d)(3)B).

CONCLUSION

The Application should be granted

Respectfully submitted,



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January 14, 2003

REQUIRED STATEMENTS

Pursuant to the Commission's Public Notice, Updated Filing Requirements for Bell Operating Company Applications Under Section 271 of the Communications Act, 17 FCC Rcd 5826 (2001), SBC states *as follows*:

- (a) pages v-vii of this Brief contain a table of contents;
- (b) the Executive Summary of this Brief (pages i-iv) contains a concise summary of the substantive arguments presented;
- (c) pages 7-12 of this Brief contain statements identifying how SBC meets the requirements of section 271(c)(1); the table of contents of Appendix B identifies the agreements on which SBC primarily relies in this application; footnote 14 of the affidavit of Daniel Jacobsen describes the status of federal court challenges to the agreements pursuant to section 252(e)(6);
- (d) pages 1-5 of this Brief contain a statement summarizing the status and findings of the Public Utilities Commission of Nevada's proceedings examining SBC's compliance with section 271;
- (e) this Brief contains the legal and factual arguments outlining how the three requirements of section 271(d)(3) have been met and is supported as necessary with selected excerpts from the supporting documentation (with appropriate citations): pages 12-67 address the requirements of section 271(d)(3)(A); pages 77-78 address the requirements of section 271(d)(3)(B); and pages 67-77 address the requirements of section 271(d)(3)(C);
- (f) Attachment 3 to this Brief (separately bound) contains a list of all appendices (including affidavits) and the location of and subjects covered by each of those appendices;
- (g) inquiries relating to access (subject to the terms of any applicable protective order) to any confidential information submitted by SBC in this Application should be addressed to:

Laura S. Brennan
Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C.
Sumner Square
1615 M Street, N.W., Suite 400
Washington, D.C. 20036-3209
Telephone: (202) 367-7821

- (h) Anti-Drug Abuse Act certifications as required by 47 C.F.R. § 1.2002 and certifications signed by officers or duly authorized employees certifying that all information supplied in this joint application is true and accurate to the best of their information and belief are included as Attachment 2 to this Brief; and
- (i) Application materials and any subsequent submissions can be found at http://www.sbc.com/public_affairs/competition_and_long_distance/long_distance_by_state/0,5931,145,00.html. This website is also identified on page 1 of this Brief.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Application by SBC Communications Inc.,
Nevada Bell Telephone Company, and
Southwestern Bell Communications Services,
Inc. for Provision of In-Region, InterLATA
Services in Nevada

WC Docket No. _____

**DECLARATION AND VERIFICATION OF DANIEL O. JACOBSEN
AND ANTI-DRUG ABUSE ACT OF 1988 CERTIFICATION
OF NEVADA BELL TELEPHONE COMPANY**

1. I am Executive Director – Regulatory Nevada Bell Telephone Company ("Nevada Bell"). I am authorized to make this declaration on behalf of Nevada Bell.

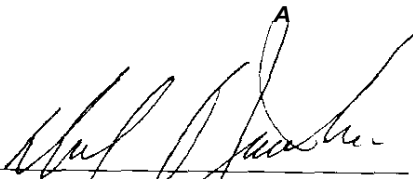
2. I have reviewed the foregoing Application by SBC Communications Inc., Nevada Bell Telephone Company, and Southwestern Bell Communications Services, Inc. for Provision of In-Region, InterLATA Services in Nevada, and the materials tiled in support thereof ("Application").

3. The information contained in the Application has been provided by persons with knowledge thereof. All information supplied in the Application is true and accurate to the best of my knowledge, information, and belief formed after reasonable inquiry.

4. I further certify that Nevada Bell is not subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

5. I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 9, 2003



Daniel O. Jacobsen

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Application by SBC Communications Inc.,
Nevada Bell Telephone Company, and
Southwestern Bell Communications Services,
Inc. for Provision of In-Region, InterLATA
Services in Nevada

WC Docket No. _____

**DECLARATION AND VERIFICATION OF PAUL K. MANCINI
AND ANTI-DRUG ABUSE ACT OF 1988 CERTIFICATION
OF SBC COMMUNICATIONS INC.**

1. I am Vice President and Assistant General Counsel of SBC Telecommunications, Inc. I am authorized to make this declaration on behalf of SBC.

2. I have reviewed the foregoing Application by SBC Communications Inc., Nevada Bell Telephone Company, and Southwestern Bell Communications Services, Inc. for Provision of In-Region, InterLATA Services in Nevada, and the materials filed in support thereof ("Application"),

3. The information contained in the Application has been provided by persons with knowledge thereof. All information supplied in the Application is true and accurate to the best of my knowledge, information, and belief formed after reasonable inquiry.

4. I further certify that SBC is not subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

5. I declare under penalty of perjury that the foregoing is true and correct.

Executed on January ___, 2003.



Paul K. Mancini

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Application by SBC communications Inc.,
Michigan Bell Telephone Company, and
Southwestern Bell Communications Services,
Inc. for Provision of In-Region, InterLATA
Services in Michigan

WC Docket No. _____

**DECLARATION AND VERIFICATION OF JOE CARRISALEZ
AND ANTI-DRUG ABUSE ACT OF 1988 CERTIFICATION
OF SOUTHWESTERN BELL COMMUNICATIONS SERVICES, INC.**

1. I am Executive Director – Regulatory of Southwestern Bell Communications Services, Inc. (“SBCS”). I am authorized to make this declaration on behalf of SBCS.
2. I have reviewed the foregoing Application by SBC Communications Inc., Michigan Bell Telephone Company, and Southwestern Bell Communications Services, Inc. for Provision of In-Region, InterLATA Services in Michigan, and the materials filed in support thereof (“Application”).
3. The information contained in the Application has been provided by persons with knowledge thereof. All information supplied in the Application is true and accurate to the best of my knowledge, information, and belief formed after reasonable inquiry
4. I further certify that SBCS is not subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. 21 U.S.C. § 862.
5. I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 9, 2003



Joe Carrisalez
Joe Carrisalez

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Brief and Appendix A

Box 1	Appendix C Vol. 1a
Box 1	Appendix B Vol. 1-5
Box 2	Appendix C Vol. 2-6
Box 2	Appendix B Vol. 6-11
Box 3	Appendix B Vol. 12-14
Box 3	Appendix C Vol. 7-11
Box 4	Appendix C Vol. 12-14
Box 5	Appendix C. Vol. 14c-16

Appendix D, E, F and K